

1 IN THE UNITED STATES DISTRICT COURT
2 FOR THE CENTRAL DISTRICT OF CALIFORNIA
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5 ARMANDO VILLANUEVA AND HORTENCIA)
6 SAINZ, INDIVIDUALLY AND AS)
7 SUCCESSOR IN INTEREST TO PEDRO)
8 VILLANUEVA, DECEASED, AND)
9 FRANCISCO OROZCO, INDIVIDUALLY,) Case No.
10) 8:17-cv-01302
11 Plaintiffs,) JLS (KESx)
12)
13 vs.)
14)
15 STATE OF CALIFORNIA; JOHN)
16 CLEVELAND; RICH HENDERSON AND)
17 DOES 1-10, INCLUSIVE,)
18)
19 Defendants.)
20)
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24 DEPOSITION OF EDWARD C. FATZINGER, JR.
25 Los Angeles, California
Thursday, August 23, 2018
Volume I
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1 A Probably within the last month.

2 Q After your report?

3 A Yes.

4 Q Okay. So let's talk about what you did to
5 complete your assignment. So I'm just going to ask you
6 a broad question. What did you do to complete your
7 assignment? And then we'll break it down from there.

8 A Sure. Basically, look at the vehicle, the
9 Chevrolet, look at the site, measure it, photograph it,
10 review various reports, investigative reports, and then
11 at that point, start doing my research, start putting
12 together the simulation. I used a program called PC
13 Crash.

14 So, essentially, what I'll bring is in the
15 investigating officer's measurements, I'll bring in my
16 measurements and sort of scale the scene, if you will,
17 and then bring in the individual vehicles.

18 You can model their length, width, height,
19 things of that nature. And then you can essentially
20 drive them through the scene. I can add sequencing as
21 far as accelerating, braking, steering, things of that
22 nature. So I can move the vehicles in the program, and
23 then when the vehicles overlap, they calculate an
24 impact.

25 So, basically, collected all the information

1 on the scene, scaled the programs, brought the vehicles
2 in, and then based on the evidence and the testimony
3 started modeling the various motions of the vehicle.

4 Q Let's go back to the vehicle inspection, the
5 site inspection. You did measurements and took photos;
6 correct?

7 A Yes.

8 Q Anything else?

9 A Laser scan both the car and the site, as well
10 as we downloaded the pickup truck for the VIN data
11 recorder.

12 Q Okay. And then you said you reviewed reports.
13 Which reports did you review?

14 A All the investigative reports as well as,
15 again, the testimony, deposition testimony.

16 Q What deposition testimony did you review?

17 A The two investigating officers, Cleveland, and
18 I think Hernandez.

19 MR. GARCIA: Henderson.

20 THE WITNESS: Henderson. Sorry. And then
21 there were the right front passenger, Orozco, and the
22 witness, Hinkle, witness Abel Orozco, and then there's
23 a couple more, I think Sainz and Armando Villanueva.
24 And that's I believe everybody.

25 ///

1 A No.

2 Q And what testing did you do on your 2017 GMC
3 pickup truck?

4 A I just documented the idle speed, essentially.

5 Q And what did you document that idle speed to
6 be?

7 A My truck was about 2.9 miles an hour. But I
8 have a different transmission than the subject vehicle.
9 So if you apply the correct ratio difference, it's
10 about 4.2 would be the equivalent on the subject truck.

11 Q 4.2 miles per hour for the idle speed for the
12 subject truck?

13 A Correct.

14 Q Did you do any other kind of testing on your
15 own pickup truck?

16 A No.

17 Q What literature did you review to find that
18 the Chevrolet Silverado had a turning diameter of 40
19 feet?

20 A From the manufacturer.

21 Q Do you have it with you?

22 A Yes.

23 Q Can you point it to me in this?

24 A This pack of pages here (indicating).

25 Q And just for the record, you've got a --

1 well as the witness, Hinkle. And also obviously where
2 the vehicles came to rest.

3 Q Okay. And the next bullet point, the left
4 front of the Chevrolet subsequently collided with the
5 left rear door of the CHP Ford Taurus. What's that
6 based on?

7 A Again, that's based on the photographs, the
8 scene photographs. We see the vehicles at rest. The
9 damage to the Chevrolet is consistent with that as well
10 as the testimony of those three same individuals;
11 Cleveland, Henderson, and Hinkle.

12 Q Okay.

13 A I'm sorry. I keep forgetting about the right
14 front passenger, Orozco.

15 Q Okay. So for four and five bullet points you
16 would include Orozco as the testimony you're basing
17 that on?

18 A Right.

19 Q And that's Francisco, not Abel?

20 A Correct.

21 Q The next one, the movement of the Chevrolet
22 from impact with the Honda Civic to impacting the CHP
23 Ford could not be done in one maneuver due to the
24 proximity of the vehicles. What's that based on?

25 A Right. That comes down to, again, the

1 testimony of Cleveland and Henderson. Cleveland
2 testified that the pickup truck came back in a more
3 perpendicular fashion. Also describes it in one of his
4 exhibits, draws it out, how it reversed.

5 Henderson's testimony that it came back and
6 collided with the Honda about 15 to 30, which would be
7 consistent with the low end that I said, 12 to 15 that
8 I modeled initially. As well as I think the testimony
9 of right front passenger Orozco.

10 The collective testimony is that the Chevrolet
11 maneuver was essentially straight back, not perfectly
12 straight, but in general, straight back. And for that
13 vehicle to then turn south and impact the Ford the way
14 it did, it would have to make two maneuvers based on
15 the proximity of the Honda and the Ford.

16 Q Okay. Did you read in Mr. Orozco's police
17 interview where he talked about that the truck busted a
18 circle, in his words?

19 A Not necessary -- no, I don't know what that
20 means, busted a circle.

21 Q Did you --

22 A I would assume it means a K turn or turn of
23 some maneuver or fashion.

24 Q Did you hear -- did you read where he said
25 that he turned real quick?

1 A Yes.

2 Q And did you also read where he gave an angle
3 as closer to 45 degrees when the -- when the truck
4 stopped after the initial reverse?

5 A I -- my understanding was when the vehicle
6 ultimately moved forward towards the Ford it was at a
7 45 degree angle. I don't think he made it -- got that
8 specific as to after the Ford impact or not.

9 Q Did you see any witness testimony indicating
10 that the truck made more than just a reverse move and a
11 forward move?

12 A Actually Hinkle testifies to it. He describes
13 the turn as -- oh, here it is -- he says, tried to make
14 a U-ie, in other words, referring to the Chevrolet,
15 tried to make a U-ie, back around, back, went in,
16 backed out, and started coming forward, back again. So
17 he's describing two reverse maneuvers.

18 Q Okay. Is that the only testimony that you saw
19 that -- that supports the -- your opinion that the
20 truck made more than just a one reverse and one forward
21 motion?

22 A Right. That's -- that's the only specific
23 testimony. A lot of it just describes a K turn, which
24 in general doesn't describe how many reverses they are.
25 They just describe it as a K turn.

1 A No.

2 Q Is there any EDR data that supports that
3 number?

4 A No.

5 Q And then finally you indicate the entire time
6 from impact with the Honda Civic to impact with the CHP
7 Ford as roughly 16 to 17 seconds?

8 A Right. Including those reverse maneuvers.

9 Correct.

10 Q And the only testimony that corroborates that
11 is the testimony of Mr. Hinkle?

12 A Mr. Hinkle as well as the other witnesses that
13 say it was making a K turn.

14 Q Who were those witnesses?

15 A I believe the right front passenger of the
16 Chevrolet said that it was making a K turn, turning
17 around.

18 Q Anybody else?

19 A I don't think anyone gets into it specifically
20 on the details of the actual maneuvers.

21 Q Did you see Mr. Orozco use the term "K turn"
22 anywhere in his deposition transcript?

23 A Francisco?

24 Q Yes.

25 A He says, We wanted to do a three point turn or

1 a K turn as you call it. Yes, so he mentions that.

2 Q Okay. In his deposition?

3 A Yes.

4 Q Okay. Did you also read his declaration in
5 support of the summary judgment motion?

6 A I don't know if I saw that or not.

7 Q Okay.

8 A That's what I thought. Just to correct the
9 record, I think I said a second in between reverse and
10 forward maneuvers. I actually have about two seconds.
11 And that's basically the time for someone to shift
12 gears and then you have to also factor in the time to
13 turn the steering wheel.

14 Q Okay. So when you said one second was the
15 average for somebody to do that kind of maneuver, that
16 was incorrect?

17 A No. It's correct for shifting, but I forgot
18 you have to do the steering as well.

19 Q Okay. And again, somebody who's in a hurry
20 could do that faster than two seconds; correct?

21 A If they really wanted to, sure. Or slower.

22 Q Okay. Well, if you're in a hurry you normally
23 wouldn't do it slower, would you?

24 A No.

25 Q You also state that the truck was traveling

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4 I, EDWARD C. FATZINGER, JR., do declare under
5 penalty of perjury that I have read the foregoing
6 transcript; that I have made any corrections as appear
7 noted, in ink, initialed by me, or attached hereto;
8 that my testimony as contained herein, as corrected, is
9 true and correct.

10 EXECUTED this _____ day of _____,
11 2018, at _____.

(City)

(State)

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EDWARD C. FATZINGER, JR.

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1 C E R T I F I C A T E
2

3 I, the undersigned, a Certified Shorthand
4 Reporter of the State of California, do hereby certify;

5 That the foregoing proceedings were taken
6 before me at the time and place herein set forth; that
7 any witnesses in the foregoing proceedings, prior to
8 testifying, were administered an oath; that a record of
9 the proceedings was made by me using machine shorthand
10 which was thereafter transcribed under my direction;
11 that the foregoing transcript is a true record of the
12 testimony given.

13 Further, that if the foregoing pertains to the
14 original transcript of a deposition in a Federal Case,
15 before completion of the proceedings, review of the
16 transcript [] was [] was not requested.

17 I further certify I am neither financially
18 interested in the action nor a relative or employee or
19 any attorney or any party to this action.

20 IN WITNESS WHEREOF, I have this date
21 subscribed my name.

22 Dated: September 12, 2018

23

24



25

CLAUDIA R. GARCIA, CSR. 12812